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**International residual mechanism for criminal tribunals**

**Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994**

**Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991**

# Second performance reports for the biennium 2010-2011 and proposed budgets for the biennium 2012-2013 of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia and proposed budget for the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013

## Report of the Advisory Committee on Administrative and Budgetary Questions

## I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the proposed budgets for the biennium 2012-2013 for the International Criminal Tribunal for Rwanda (A/66/368) and the International Tribunal for the Former Yugoslavia (A/66/386). It has also considered the second performance reports for the biennium 2010-2011 of the International Criminal Tribunal for Rwanda (A/66/557 and Corr.1) and the International Tribunal for the Former Yugoslavia (A/66/555). In addition, the Advisory Committee considered the proposed budget for the International Residual Mechanism for Criminal Tribunals

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for the biennium 2012-2013 (A/66/537). During its consideration of these reports, the Committee met with representatives of both Tribunals and the Office of Legal Affairs, who provided additional information and clarification.

2. The Advisory Committee has considered these reports together in order to address cross-cutting issues concerning the Tribunals and the transition process to the International Residual Mechanism.

# II. Cross-cutting issues

## A. Staff retention

3. In its resolutions 59/273 and 59/274, the General Assembly requested the Secretary-General to make every effort to reduce the vacancy rate and improve staff retention at the Tribunals, including by extending contracts of staff performing functions that are central to the implementation of the completion strategies beyond the period of the current budget. In its latest resolutions on staff retention, 64/239, 65/252 and 65/253, the Assembly requested the Secretary-General to utilize his authority under the existing contractual framework to offer contracts to staff of the Tribunals, and to explore the possibility of employing at the United Nations staff who remain with the Tribunals until the completion of their mandates.

4. Upon enquiry, the Advisory Committee was informed that although to date staff of the Tribunals have not been issued contracts that extend beyond the budget cycle, and no measures have been put in place for the United Nations to absorb Tribunal staff who remain until the completion of the mandates, other flexible measures regarding the recruitment and retention of staff have been put in place. These include extension of contracts beyond retirement age, payment of special post allowance and early repatriation. The Committee was informed that despite the use of such measures, the attrition rate of staff remains unchanged, and staff members, particularly the most experienced and long-serving staff members, continue to leave employment at the Tribunals for more stable and long-term employment elsewhere.

5. The Advisory Committee recalls that it previously commented on the issue of staff retention with respect to the Tribunals in its report A/62/734, which contained recommendations on staff retention measures. Some of these recommendations were subsequently endorsed by the General Assembly in its resolution 63/256. **The Committee encourages the Tribunals to continue their efforts to recruit and retain sufficient staff to ensure the timely completion of their mandates.**

## B. Lump-sum legal aid system

6. Both Tribunals use a lump-sum legal aid policy for pretrial and trial phases of a case. The Advisory Committee was informed that at the appellate level, the International Criminal Tribunal for Rwanda also utilizes the lump-sum policy, while the International Tribunal for the Former Yugoslavia is in the process of reviewing its appeals legal aid system. The Committee notes from the supplementary information provided to it that the International Criminal Tribunal for Rwanda estimates requirements in the amount of $7,273,000 for defence counsel fees and related costs during the biennium 2012-2013. The Committee was informed that the

defence workload of the International Criminal Tribunal for Rwanda comprises the completion of trials, appeals, preservation of evidence hearings and contempt of court proceedings.

7. With respect to the International Tribunal for the Former Yugoslavia, the Advisory Committee notes from the supplementary information provided to it that an amount of $15,085,600 will be required for the provision of defence counsel to an average of 34 accused persons who will be the subject of trial and appellate proceedings at the Tribunal during the biennium 2012-2013. Upon enquiry, the Committee was informed that $7,955,600 of that amount related to trials and $7,130,000 to appeals. The Committee was also informed, upon enquiry, that the Tribunal was currently reviewing the appeals legal aid system and would discuss the findings of its review with the professional association representing the interests of the defence counsel at the Tribunal. Since the lump-sum scheme had not yet been finalized, the budget for 2012-2013 had been prepared on the basis of the existing arrangements for remunerating defence counsel for appeals.

8. **In the Advisory Committee's view, the lump-sum system of both Tribunals provides greater predictability in defence counsel costs, facilitates and streamlines the legal aid process and may also lead to savings. Accordingly, the Committee encourages the International Tribunal for the Former Yugoslavia to extend the existing scheme to cover the appeals stage.**

# III. International Criminal Tribunal for Rwanda

## A. Completion strategy and status of trial-related activities

9. By its resolution 1966 (2010), the Security Council requested both Tribunals to take all possible measures to expeditiously complete all their remaining work as provided by the resolution no later than 31 December 2014, to prepare their closure and ensure a smooth transition to the International Residual Mechanism. The Advisory Committee notes that the Tribunal will transition to the International Residual Mechanism on 1 July 2012, with most of its functions being transferred to the Mechanism on that date.

10. Pursuant to its completion strategy, the Tribunal has almost completed all its work at the trial level (see A/66/368, para. 4). The Tribunal had previously projected in its budget for the biennium 2010-2011 that all first-instance trials would be completed by 30 June 2011, but it is now indicated that the pace of work has not matched this projection (see A/66/368, para. 7).

11. The Secretary-General states that during the biennium 2010-2011, from 1 January 2010 to 4 November 2011, the Trial Chambers of the Tribunal rendered 10 judgements involving 21 accused and heard evidence in four other trials of five accused. One request for referral to Rwanda was approved and two new trials commenced. The Appeals Chamber rendered 9 appeal judgements concerning nine persons, 15 interlocutory appeal decisions, 18 decisions on review and other requests, and 250 pre-appeal orders and decisions. In addition, the Appeals Chamber heard three appeal cases in respect of four persons. The Prosecutor filed motions for the preservation of evidence for a future trial in the cases of three fugitives (see A/66/557, annex II, paras. 1, 2 and 4).

12. Although the Tribunal will transition to the International Residual Mechanism on 1 July 2012, it is mandated to complete all trial or referral proceedings that are pending with it as of the commencement date of the Mechanism, in addition to other ongoing functions, including preparations for the transition to the Mechanism (see Security Council resolution 1966 (2010), annex 2).

13. The Advisory Committee was informed that during the biennium 2012-2013, projected activities include three contempt-of-court trials and two genocide trials, if the referrals of the two genocide cases to Rwanda are unsuccessful. The Tribunal expects to render judgement in four other trials involving five accused, and conduct at least 40 appeals in eight cases. Other ongoing tasks include three motions for the preservation of evidence; the tracking of nine fugitives prior to the handover to the International Residual Mechanism; preparation of case files against six fugitives whose cases are earmarked for referral to national jurisdictions; and review of 500 witness protection orders (see annex I).

14. The Advisory Committee notes that the Prosecutor's efforts to find willing national jurisdictions to accept the referral of cases from the Tribunal have so far been unsuccessful (see A/66/368, para. 15). **The Committee recommends that the Tribunal intensify its outreach efforts in this regard, in order to ensure the successful referral of cases to national jurisdictions.**

15. With respect to archiving, the Advisory Committee was informed that the Tribunal has completed the digitization of the audio-visual records. It has also redacted more than 3,000 hours of audio-visual material and archived approximately 1,500 linear metres of paper records. The Tribunal informed the Committee that although the International Residual Mechanism will commence its archives management function on 1 July 2012, not all archives will be transferred to its custody on that date; instead, the migration of the custody of the records will take place in a phased manner. This approach takes into account the size of the archives and the fact that the archives will continue to be added to until the completion of the Tribunal's mandate as its ongoing operations during the biennium will generate additional records.

16. The Tribunal proposes to retain 416 posts during the biennium, in addition to seeking funding through general temporary assistance for 41 Professional and 213 General Service positions for between 6 and 24 months each. More details concerning the post and non-post resources requested are contained in paragraphs 26 to 30 below.

## B. Second performance report for the biennium 2010-2011

17. In its resolution 65/252, the General Assembly approved a revised appropriation to the Special Account for the International Criminal Tribunal for Rwanda of a total amount of $257,804,100 gross ($235,327,400 net) for the biennium 2010-2011.

18. The final requirements for 2010-2011 are projected at $257,081,500 gross ($233,691,800 net), reflecting a reduction of $722,600 gross ($1,635,600 net) compared with the revised appropriation for the biennium 2010-2011. This reduction is attributable to decreases in post incumbency and other changes, partially offset by additional requirements for changes with respect to the combined effect of exchange rates and inflation, as set out in table 1 below.

Table 1
**Projected expenditure by object of expenditure and main determining factor**
(Thousands of United States dollars)

| *Object of expenditure* | *Revised appropriation* | *Projected changes* | | | | *Proposed final appropriation* |
|---|---|---|---|---|---|---|
| | | *Rate of exchange* | *Inflation* | *Post incumbency and other changes* | *Total* | |
| Expenditure | | | | | | |
| Posts | 134 461.5 | (1 265.6) | 2 515.4 | 2 911.4 | 4 161.2 | 138 622.7 |
| Other staff costs | 42 670.3 | (670.6) | 312.1 | 2 769.4 | 2 410.9 | 45 081.2 |
| Salaries and allowances of judges | 10 710.9 | (29.9) | 7.3 | (7.4) | (30.0) | 10 680.9 |
| Consultants | 318.6 | (1.3) | (0.9) | (28.5) | (30.7) | 287.9 |
| Travel of representatives | 761.8 | — | 10.4 | (9.8) | 0.6 | 762.4 |
| Travel | 4 257.6 | — | 37.2 | 76.9 | 114.1 | 4 371.7 |
| Contractual services | 21 602.2 | (138.5) | (15.1) | (7 907.6) | (8 061.2) | 13 541.0 |
| General operating expenses | 12 543.5 | (121.8) | (6.7) | (1 140.8) | (1 269.3) | 11 274.2 |
| Hospitality | 7.5 | (0.1) | — | 0.1 | — | 7.5 |
| Supplies and materials | 2 384.2 | (22.1) | 4.3 | 2.5 | (15.3) | 2 368.9 |
| Furniture and equipment | 2 892.9 | (37.3) | 14.1 | 858.7 | 835.5 | 3 728.4 |
| Improvement of premises | 313.4 | (2.7) | 0.3 | 501.7 | 499.3 | 812.7 |
| Grants and contributions | 2 403.0 | — | — | (250.7) | (250.7) | 2 152.3 |
| Staff assessment | 22 476.7 | (129.3) | 184.6 | 857.7 | 913.0 | 23 389.7 |
| **Total expenditure (gross)** | **257 804.1** | **(2 419.2)** | **3 063.0** | **(1 366.4)** | **(722.6)** | **257 081.5** |
| Income | | | | | | |
| Staff assessment | 22 476.7 | (129.3) | 184.6 | 857.7 | 913.0 | 23 389.7 |
| **Total requirements (net)** | **235 327.4** | **(2 289.9)** | **2 878.4** | **(2 224.1)** | **(1 635.6)** | **233 691.8** |

19. Upon enquiry, the Advisory Committee was informed that total appropriations for the Tribunal from its inception in 1995 through the biennium 2010-2011 amount to approximately $1.7 billion (see also para. 51 below). As at 31 December 2010, unpaid contributions totalled $12,017,846. To date, unpaid contributions for prior periods stand at $3,758,654. A total amount of $125,009,420 was assessed for 2011, of which $9,975,913 remains outstanding.

20. The Advisory Committee notes that the Registry's travel expenses are estimated to have decreased by $172,900 owing to improved management of the travel schedules of protected witnesses, combined travel missions and the use of United Nations aircraft (see A/66/557, para. 17). **The Committee welcomes this approach and recommends that the Tribunal continue to explore ways to achieve savings and improve efficiency.**

21. With respect to other staff costs for records management and archives, the Tribunal projects an overexpenditure of $791,700, owing to an underestimation of the requirements and lack of information as to the magnitude of the task, which the Secretary-General indicates led to under-budgeting (see A/66/557, para. 21). **Given that archiving will continue to be a major activity for the Tribunal, the Advisory Committee requests that the Tribunal ensure that the resource**

**requirements needed for future archival projects are accurately budgeted during the biennium to which they relate to prevent further instances of overexpenditure in subsequent bienniums.**

## C. Proposed budget for the biennium 2012-2013

22. The estimated resource requirements for the biennium 2012-2013 amount to $174,318,200 gross ($157,938,900 net) before recosting, representing a decrease of $83,485,900 gross or 32.4 per cent ($77,388,500 net or 32.9 per cent) compared with the revised appropriation for the biennium 2010-2011. The total proposed resource requirements, after recosting, amount to $183,324,900 gross ($166,527,700 net). **The Advisory Committee recognizes the improved quality in the presentation of the Tribunal's proposed budget, which contains clear information on the estimated costs and proposed staffing changes for the biennium, and encourages the Tribunal in the continued improvement of its budget presentation.**

23. The proposed requirements comprise: (a) $8,285,800 for the Chambers; (b) $38,380,900 for the Office of the Prosecutor; (c) $114,316,500 for the Registry; and (d) $13,335,000 for records management and archives. A summary of the resource requirements by object of expenditure under the assessed budget is provided in table 2 below.

Table 2
**Requirements by object of expenditure**
(Thousands of United States dollars)

| *Object of expenditure* | *2008-2009 expenditure* | *2010-2011 appropriation* | *Resource growth* | | *Total before recosting* | *Recosting* | *2012-2013 estimate* |
|---|---|---|---|---|---|---|---|
| | | | *Amount* | *Percentage* | | | |
| Posts | 166 744.3 | 134 461.5 | (33 948.0) | (25.2) | 100 513.5 | 3 137.5 | 103 651.0 |
| Other staff costs | 26 814.1 | 42 670.3 | (18 838.0) | (44.1) | 23 832.3 | 2 647.6 | 26 479.9 |
| Non-staff compensation | 10 125.4 | 10 710.9 | (3 104.9) | (29.0) | 7 606.0 | 360.0 | 7 966.0 |
| Consultants and experts | 293.2 | 318.6 | (76.2) | (23.9) | 242.4 | 25.5 | 267.9 |
| Travel of representatives | 583.0 | 761.8 | (82.0) | (10.8) | 679.8 | 26.0 | 705.8 |
| Travel of staff | 12 217.1 | 4 257.6 | (742.9) | (17.4) | 3 514.7 | 118.9 | 3 633.6 |
| Contractual services | 30 278.1 | 21 602.2 | (11 817.0) | (54.7) | 9 785.2 | 989.4 | 10 774.6 |
| General operating expenses | 11 623.0 | 12 543.5 | (5 912.3) | (47.1) | 6 631.2 | 798.6 | 7 429.8 |
| Hospitality | 4.4 | 7.5 | — | — | 7.5 | 0.9 | 8.4 |
| Supplies and materials | 2 974.5 | 2 384.2 | (504.6) | (21.2) | 1 879.6 | 221.8 | 2 101.4 |
| Furniture and equipment | 2 427.8 | 2 892.9 | (1 362.7) | (47.1) | 1 530.2 | 200.6 | 1 730.8 |
| Improvement of premises | 192.9 | 313.4 | 203.1 | 64.8 | 516.5 | 62.0 | 578.5 |
| Grants and contributions | 2 825.6 | 2 403.0 | (1 203.0) | (50.1) | 1 200.0 | — | 1 200.0 |
| Staff assessment | 24 822.9 | 22 476.7 | (6 097.4) | (27.1) | 16 379.3 | 417.9 | 16 797.2 |
| **Total expenditure (gross)** | **291 926.3** | **257 804.1** | **(83 485.9)** | **(32.4)** | **174 318.2** | **9 006.7** | **183 324.9** |
| Income | | | | | | | |
| Income from staff assessment | 24 822.9 | 22 476.7 | (6 097.4) | (27.1) | 16 379.3 | 417.9 | 16 797.2 |
| **Total requirements (net)** | **267 103.4** | **235 327.4** | **(77 388.5)** | **(32.9)** | **157 938.9** | **8 588.8** | **166 527.7** |

24. The Advisory Committee was informed that the Tribunal also receives extrabudgetary funding that has been utilized towards an outreach programme, including capacity-building of judicial and academic institutions and the publication of the first cartoon book on the Rwandan genocide entitled *100 Days in the Land of the Thousand Hills*. The Committee notes from the supplementary information provided to it that to date, cash contributions to the voluntary fund of the Tribunal amount to $13,167,717. As the fund balance is now depleted and no financial commitments from Member States or donors have been received, the Tribunal does not anticipate mobilizing extrabudgetary resources for ongoing projects (see A/66/368, para. 26). **The Committee recommends that the Tribunal reinvigorate its outreach to Member States and donors to replenish the voluntary fund in order to continue its important capacity-building projects.**

### 1. Posts

25. The Tribunal proposes to retain 416 posts during the biennium, representing a decrease through abolition of 212 posts (or 33.8 per cent) over the current authorized staffing level of 628 (see A/66/368, para. 20). The decrease reflects the reduction in activities as tasks are accomplished and transition to the International Residual Mechanism takes place. The Advisory Committee notes from the supplementary information provided to it that the requested 416 posts comprise 165 Professional level posts and 251 General Service and Other level posts.

26. As indicated in table 2 above, resource requirements proposed under posts amount to $100,513,500, before recosting, reflecting a decrease of $33,948,000, or 25.2 per cent, compared with the 2010-2011 appropriation of $134,461,500.

### 2. Non-post resources

27. Resource requirements under other staff costs, including general temporary assistance, are estimated at $23,832,300, before recosting, reflecting a reduction of $18,838,000, or 44.1 per cent, in comparison with the 2010-2011 appropriation of $42,670,300.

28. A provision of $22,110,700 is sought under general temporary assistance to fund 41 Professional and 213 General Service positions, for between 6 and 24 months each, to manage the remaining workload and the upcoming transition. The Advisory Committee recalls that posts were recommended for abolition in the biennium 2010-2011 in anticipation of a decreased workload owing to the completion of all first-instance trials. However, the Secretary-General states that unexpected circumstances, such as the arrest of three fugitives, have caused an increase in the actual workload (see A/66/368, paras. 11 and 12). These posts funded under general temporary assistance would allow the Tribunal to have flexibility in accelerating or decelerating the phasing out of individual posts while maintaining critical functions during the final stage of the completion process (see A/66/368, para. 21).

29. Under contractual services, which includes defence counsel fees and related costs, requirements are projected at $9,785,200, before recosting, representing a decrease of $11,817,000, or 54.7 per cent, compared with the 2010-2011 appropriation of $21,602,200. The Advisory Committee notes from the supplementary information provided to it that the decrease is due largely to lower requirements for defence counsel fees as a result of reduced trial activity.

### D. Conclusions and recommendations

30. **The Advisory Committee recommends that the General Assembly take note of the second performance report and approve the final appropriation for the biennium 2010-2011 in the amount of $257,081,500 gross ($233,691,800 net) to the Special Account for the International Criminal Tribunal for Rwanda.**

31. **The Advisory Committee also recommends approval of the resource requirements outlined in the proposed budget for the biennium 2012-2013 for the International Criminal Tribunal for Rwanda.**

## IV. International Tribunal for the Former Yugoslavia

### A. Completion strategy and status of trial-related activities

32. As indicated in paragraph 3 of the report of the Secretary-General on the proposed budget for the International Tribunal for the Former Yugoslavia (A/66/386), the completion strategy of the Tribunal, endorsed in July 2002 by a statement of the President of the Security Council (S/PRST/2002/21), set 31 December 2004 for the conclusion of all new investigations, 31 December 2008 for the completion of all first-instance trials and 31 December 2010 for the completion of appeals. Pursuant to Council resolution 1534 (2004), the President and Prosecutor of the Tribunal are required to provide to the Council, every six months, an assessment of the progress made towards implementation of the completion strategy. The last such report (S/2011/316) was submitted in May 2011. In its resolution 1966 (2010), the Council noted that the envisaged completion strategy dates had not been met, and requested the Tribunal to take all possible measures to expeditiously complete its remaining work no later than 31 December 2014. The Advisory Committee notes that the Tribunal is due to transition to the International Residual Mechanism (see section V below) on 1 July 2013.

33. The Advisory Committee notes that the first major milestone of the completion strategy has been met, with all investigations having been completed and the last new indictments confirmed by the Chambers at the end of 2004. As indicated in paragraph 5 of the report of the Secretary-General, the last two fugitives at large were arrested in 2011, meaning that the Tribunal has completed or will be completing proceedings in respect of all 161 persons indicted.

34. In his report on the proposed budget, the Secretary-General indicates that a total of 11 cases involving 28 persons, including a retrial, will have been heard by the Tribunal during the biennium 2010-2011. The verdicts in four trials, involving 12 accused, will have been delivered, two contempt judgements will have been rendered and a total of nine appeals on the merits, involving 23 convicted persons from the Tribunal, will have been heard (A/66/386, para. 26). It is estimated that, during the biennium 2012-2013, the Chambers will work on nine trials, including one partial retrial; 30 pre-appeal procedures; 11 appeals from final trial chamber judgements; and all interlocutory appeals arising from trials (ibid., para. 27). During that period, the Tribunal expects to issue judgements in six cases, involving 15 accused. It is currently anticipated that, barring any unanticipated developments, three trials will continue past the end of the biennium 2012-2013 (ibid., paras. 6 and 28). Upon enquiry, the Advisory Committee was informed that, as at November

2011, two cases were at the pretrial stage, seven cases were at the trial stage and six cases were before the Appeals Chamber.

35. According to the Secretary-General, the changes in the trial completion dates, as compared with the dates previously projected, are attributable to the late arrests of fugitives, the high rate of staff attrition, the discovery of important evidence while proceedings were ongoing, detainee health issues and other factors outside the control of the Tribunal (A/66/386, para. 6). The Advisory Committee notes from the report that the movement of trial completion dates will have an impact on the completion of appellate activity. In paragraph 11 of his report, the Secretary-General indicates that all cases on trial are expected to be appealed by one or more parties to the proceedings.

36. Upon enquiry, the Advisory Committee was provided with a projected forecast for all remaining pretrial, trial and appeal proceedings (see annex II). The Committee notes from the report of the Secretary-General, however, that it should be borne in mind that a number of external factors beyond the Tribunal's control can have a major impact on the anticipated completion dates of trials. Should the actual trial schedule vary significantly from that used for the formulation of the 2012-2013 budget proposal, the requirements would have to be reassessed and realigned and any additional requirements addressed in the context of the relevant performance reports (A/66/386, para. 7).

37. In paragraphs 9 and 10 of his report on the proposed budget, the Secretary-General describes the measures taken to ensure the expeditious completion of trials, which include conducting up to nine trials simultaneously and joining related indictments so as to conduct trials with multiple accused. The Tribunal has also introduced a number of reforms and measures aimed at enhancing the efficient conduct of proceedings without compromising due process. These include reducing the scope of indictments; assigning cases to the trial chamber most likely to try the case at the earliest possible stage; using agreed and adjudicated facts; admitting written evidence; strictly enforcing time limits on the parties; and discouraging duplicative evidence. The Advisory Committee also notes from paragraph 31 of the report of the Secretary-General that, during the biennium 2012-2013, the Chambers will continue to accommodate a high level of courtroom activity by maximizing the use of available resources through the operation of the three courtrooms over two daily shifts, exceeding normal working hours. In addition, where the health of the accused and the workload of the judges permit, many Chambers are holding extended sittings, beyond five hours per day.

38. On the administrative and support side, the Advisory Committee was informed that the Tribunal had established an Office of Documents Management to avoid duplicate translations; implemented lump-sum payments for defence counsel to rationalize the defence payment system (see also paras. 6-8 above); established an electronic disclosure system to enhance the efficiency of disclosures; set up a judicial database to bring the jurisprudence and entire case files of the Tribunal online; and introduced an e-court system to expedite the handling of court documents and the drafting of judgements. **The Committee commends the Tribunal for the measures it has taken to accelerate the pace and enhance the efficiency of its operations and encourages it to pursue further efforts in this regard.**

39. The Advisory Committee notes from paragraph 28 of the report of the Secretary-General that, in order to complete the first-instance trials expeditiously in all cases, it is anticipated that during the biennium 2012-2013 the Tribunal will require the continued services of 15 permanent and 9 ad litem judges. In addition, it is indicated in paragraph 12 of the report that, so as to ensure that the Appeals Chamber can deal with the significant increase in its workload during the biennium 2012-2013, the President of the Tribunal has recommended to the Security Council an increase in the composition of the Chamber from five to nine judges. Upon enquiry, the Committee was informed that the Statute of the Court had been amended to reflect the President's recommendation. The Committee was further informed that the increase would be achieved through redeployment from the Trial Chamber. In the same paragraph, the Secretary-General states that the proposed budget for 2012-2013 provides for the redeployment of legal staff to appeals, as and when first-instance trials are completed.

40. With regard to staffing levels, the Advisory Committee recalls that, in his proposed budget for the International Tribunal for the Former Yugoslavia for 2010-2011, the Secretary-General indicated that the Tribunal expected to undergo a phased reduction in staffing capacity during the biennium. At the beginning of the biennium, the total staffing of the Tribunal stood at 990 posts and positions, comprising 732 temporary posts and 258 positions funded under general temporary assistance. It was anticipated that, as trial activity decreased, a total of 399 posts and positions (186 temporary posts and 213 positions funded under general temporary assistance) would be progressively abolished over the two-year period (A/64/555, para. 36), leaving a total staffing complement of 591 posts and positions.

41. Upon enquiry, however, the Advisory Committee was informed that, as at 31 December 2011, the total staffing of the Tribunal would stand at 822 posts and positions, comprising 546 temporary posts and 276 positions funded under general temporary assistance. It is the Committee's understanding that the slippage in the trial schedule is responsible for the elimination of a lower-than-anticipated number of positions funded under general temporary assistance. As indicated in paragraph 21 of the proposed budget, for the biennium 2012-2013 the Secretary-General is proposing to retain all 546 temporary posts approved for the biennium 2010-2011. At the beginning of the biennium, the equivalent of 319 positions will be funded under general temporary assistance. The Secretary-General indicates that the Tribunal intends to gradually eliminate 163 of those positions during the biennium. The Committee has commented further on the use of general temporary assistance funding to continue the functions of posts that have been abolished in paragraphs 54 to 58 below.

42. The Advisory Committee notes that the referral of cases to national jurisdictions has been central to the Tribunal's completion strategy. Thus far, 10 accused have been transferred to the War Crimes Chamber of the Court of Bosnia and Herzegovina, two accused have been transferred to the authorities of Croatia and one accused to Serbia. No further referrals are envisaged during the biennium 2012-2013. In addition, a total of 17 investigative dossiers, involving 43 persons, have been transferred to national courts. While all dossier transfers were completed in 2010-2011, the Office of the Prosecutor will continue to provide legal support to national jurisdictions in the region (A/66/386, para. 14).

43. During the biennium 2012-2013, the Tribunal will also continue to be actively engaged in the transfer of judicial and prosecutorial know-how and in other capacity-building activities in the region of the former Yugoslavia, including running "train-the-trainer" programmes for domestic judicial and prosecutorial training professionals and improving national legal professionals' access to the Tribunal's records and archives. The Advisory Committee notes, in particular, that a project launched in 2010, with the support of the European Commission, which allowed visiting national prosecutors to spend time working in The Hague to review information and gain experience in prosecuting complex war crimes cases has proven very successful and, subject to continued funding, will be continued in 2012-2013 (A/66/386, para. 15). In addition, as part of efforts to preserve its legacy, the Tribunal, with sponsorship from the Government of the Netherlands and the School of Law of the University of California, Los Angeles, organized a conference designed to promote coordination and cooperation among various actors on the utilization of the Tribunal's legacy. Following the conference, the Tribunal prepared a report on its comprehensive legacy strategy, which was recently discussed at a second legacy conference convened in The Hague in November 2011 (ibid., para. 16). **The Committee recognizes the importance of capacity-building activities in the region and encourages the Tribunal to pursue them. The Secretary-General should provide updated information on those activities in his next budget submission.**

44. The Advisory Committee notes that two important activities for the Tribunal during the biennium 2012-2013 will be: (a) the preparation for the transition to the International Residual Mechanism (see section V below); and (b) the start-up of The Hague branch of the Mechanism in July 2013 (A/66/386, para. 8). In his report on the proposed budget, the Secretary-General indicates that the Tribunal, and in particular the Registry, will play a critical role in ensuring the coordinated transfer of functions to the Mechanism and the effective start-up of operations of The Hague branch.

45. The Advisory Committee notes, in particular, that during the biennium 2012-2013 the Registry of the Tribunal will work together with the registries of the International Residual Mechanism, once established, and of the International Criminal Tribunal for Rwanda to ensure that the transfer of functions and operations from the Tribunals proceeds in the most cost-efficient, effective and proactive manner. The Registry will also play an active role in assisting the Mechanism to develop its policies, procedures and structure, with a view to facilitating a smooth start-up of operations and ensuring the transfer of best practices and lessons learned (A/66/386, paras. 17 and 57).

## B. Second performance report for the biennium 2010-2011

46. In its resolution 64/240, the General Assembly appropriated a total amount of $290,285,500 gross ($267,987,800 net) for the International Tribunal for the Former Yugoslavia. The approved budget was established on the basis of the trial schedule applicable at the time of its preparation and the related completion strategy, under which the Tribunal envisaged a decrease in trial activity and the phasing out of a total of 399 posts and positions over the course of the biennium. However, the Secretary-General indicates that unforeseen developments affected the trial schedule, meaning that the functions of some of the posts to be abolished were

required for longer than anticipated (see para. 41 above). Subsequently, after considering the first performance report for the biennium 2010-2011 (A/65/581), the Assembly approved a revised appropriation of $320,511,800 gross ($289,810,000 net) for the Tribunal for that period (see resolution 65/253).

47. As shown in table 1 of the second performance report (A/66/555), the final requirements for 2010-2011 are projected at $327,472,300 gross ($286,012,600 net), reflecting an increase of $6,960,500 gross (a net decrease of $3,797,400). The Advisory Committee notes that the estimate is based on actual expenditures for the first 19 months of the biennium, projected requirements for the last 5 months and changes in inflation, exchange rates and cost-of-living adjustments as compared with the assumptions made in the first performance report (ibid., para. 1).

48. The higher requirements reflect the combined effect of the impact of exchange rate fluctuations ($7,230,300) owing mainly to the weakening of the dollar vis-à-vis the euro during the period from November 2010 to October 2011 and the application of the October exchange rate for November and December 2011, and to increased requirements for inflation ($2,273,500) (A/66/555, para. 4). The increase is partially offset by reduced requirements owing to post incumbency and other changes ($2,543,300). The budgetary assumptions used in the preparation of the estimates are set out in annex I to the report of the Secretary-General.

49. The Advisory Committee notes, inter alia, that a reduction of $7,966,200 is projected under other staff costs in the Registry. According to the Secretary-General, the decrease is mainly attributable to reduced requirements under interpretation ($1,337,900); translation ($246,900); general temporary assistance ($6,132,200); and overtime and night differential ($195,800). With particular reference to the reduction under overtime and night differential, the Committee notes that it has been achieved through the continual and rigorous monitoring of requests for those allowances during the biennium (A/66/555, para. 12).

50. Upon enquiry, the Advisory Committee was informed that total appropriations for the International Tribunal for the Former Yugoslavia since inception amounted to approximately $1.8 billion. As at 31 December 2010, cumulative outstanding contributions totalled $15,426,734. Of that amount, $3,753,447 related to prior periods. A total amount of $160,586,317 was assessed in 2011, of which $17,434,702 was outstanding as at 5 December 2011.

## C. Proposed budget for the biennium 2012-2013

51. The estimated resource requirements for the biennium 2012-2013 amount to $280,158,300 gross ($249,637,000 net) before recosting, reflecting a decrease of $40,353,500 gross, or 12.6 per cent ($40,173,000 net, or 13.9 per cent), as compared with the revised appropriation for the biennium 2010-2011. The decreased requirements reflect reductions under Chambers ($1,956,900), the Office of the Prosecutor ($13,254,100), the Registry ($23,968,600) and the records management and archives component ($1,173,900) owing mainly to the anticipated reduction in trial activity in 2013 (A/66/386, para. 20, and table 2). A summary of resource requirements by object of expenditure is provided in table 3 below:

Table 3
**Resource requirements for the International Tribunal for the Former Yugoslavia by object of expenditure**
(Thousands of United States dollars)

| *Object of expenditure* | *2008-2009 expenditure* | *2010-2011 appropriation* | *Resource growth* | | *Total before recosting* | *Recosting* | *2012-2013 estimate* |
|---|---|---|---|---|---|---|---|
| | | | *Amount* | *Percentage* | | | |
| Posts | 131 796.5 | 119 217.2 | (13 130.9) | (11.0) | 106 086.3 | (70.9) | 106 015.4 |
| Other staff costs | 43 991.2 | 71 653.6 | (13 792.5) | (19.2) | 57 861.1 | 379.7 | 58 240.8 |
| Non-staff compensation | 16 233.3 | 14 175.9 | (1 977.7) | (14.0) | 12 198.2 | 77.1 | 12 275.3 |
| Consultants | 708.5 | 455.9 | (1.2) | (0.3) | 454.7 | 11.2 | 465.9 |
| Experts | 282.6 | 321.0 | (78.6) | (24.5) | 242.4 | 6.1 | 248.5 |
| Travel of staff | 5 260.0 | 4 490.2 | (612.4) | (13.6) | 3 877.8 | 141.4 | 4 019.2 |
| Contractual services | 64 740.6 | 47 224.8 | (8 402.5) | (17.8) | 38 822.3 | 983.2 | 39 805.5 |
| General operating expenses | 27 370.0 | 26 114.5 | (217.0) | (0.8) | 25 897.5 | 652.5 | 26 550.0 |
| Hospitality | 12.9 | 16.2 | — | — | 16.2 | 0.4 | 16.6 |
| Supplies and materials | 1 508.0 | 1 815.3 | (331.9) | (18.3) | 1 483.4 | 37.5 | 1 520.9 |
| Furniture and equipment | 3 491.3 | 4 071.9 | (1 468.7) | (36.1) | 2 603.2 | 63.6 | 2 666.8 |
| Improvement of premises | 266.8 | 240.6 | 102.8 | 42.7 | 343.4 | 9.0 | 352.4 |
| Grants and contributions | 40.1 | 290.4 | (240.4) | (82.8) | 50.0 | — | 50.0 |
| Staff assessment | 42 040.1 | 30 424.3 | (202.5) | (0.7) | 30 221.8 | 437.9 | 30 659.7 |
| **Total (gross)** | **337 741.9** | **320 511.8** | **(40 353.5)** | **(12.6)** | **280 158.3** | **2 728.7** | **282 887.0** |
| Income | | | | | | | |
| Income from staff assessment | 42 040.1 | 30 424.3 | (202.5) | (0.7) | 30 221.8 | 437.9 | 30 659.7 |
| Other income | 292.7 | 277.5 | 22.0 | 7.9 | 299.5 | — | 299.5 |
| **Total (net)** | **295 409.1** | **289 810.0** | **(40 173.0)** | **(13.9)** | **249 637.0** | **2 290.8** | **251 927.8** |

52. The Advisory Committee notes that estimated extrabudgetary resources for the biennium 2012-2013 amount to $1,739,300, down from an estimated $3,320,100 for the biennium 2010-2011. The Secretary-General indicates that those resources will be used for a variety of activities related to supporting the work of the Office of the Prosecutor and the Registry. The estimated level of extrabudgetary resources is expected to decrease because several projects have been completed (A/66/386, para. 23 and table 2).

## 1. Posts

53. For the biennium 2012-2013, the Secretary-General is proposing to retain all the 546 temporary posts approved for the biennium 2010-2011. He recalls, in paragraph 21 of his report on the proposed budget, that during the bienniums 2008-2009 and 2010-2011 a total of 444 posts were gradually abolished (258 as at 1 January 2009 (see A/62/578, para. 12), a further 35 as at 1 January 2010 and the remaining 151 as at 1 January 2011 (see A/64/476, para. 18)). The Secretary-General asserts that, in view of the slippage in the trial schedule, the functions of some of the abolished posts need to be maintained for longer than originally anticipated. Accordingly, at the beginning of the biennium 2012-2013, the equivalent of 319 positions will be funded under

general temporary assistance. During the course of the biennium, 163 of those positions will be gradually eliminated. The Advisory Committee was provided, upon request, with a table illustrating the phasing out of positions funded under general temporary assistance during the biennium 2012-2013 (see annex III).

54. Upon enquiry, the Advisory Committee was informed that the use of general temporary assistance funding to continue the functions of abolished temporary posts had begun in the biennium 2008-2009 with a view to ensuring that the Tribunal had the flexibility to accelerate or decelerate the phasing out of those posts. The Committee was provided with the following table illustrating the use of general temporary assistance funding over the last three bienniums and the proposals for the biennium 2012-2013:

| | *1 January 2006* | *31 December 2007* | *1 January 2008* | *31 December 2009* | *1 January 2010* | *31 December 2011* | *1 January 2012* | *31 December 2013* |
|---|---|---|---|---|---|---|---|---|
| Temporary posts | 990 | 990 | 990 | 732 | 697 | 546 | 546 | 546 |
| Positions funded under general temporary assistance to maintain the functions of abolished posts | — | — | — | 258 | 267 | 276 | 319 | 156 |
| Other positions funded under general temporary assistance | 128 | 106 | 110 | 110 | 85 | 66 | 89 | 50 |
| **Total** | **1 118** | **1 096** | **1 100** | **1 100** | **1 049** | **888** | **954** | **752** |

55. The Advisory Committee notes from the table above that the proposed number of positions funded under general temporary assistance to maintain the functions of abolished posts will increase from 276 to 319 between the end of the biennium 2010-2011 and the beginning of the biennium 2012-2013. Upon enquiry, the Committee was informed that the budget for 2010-2011 did not include any dedicated resources to support the trials of the last two fugitives, because they were still at large when the estimates were prepared. Those individuals had been arrested in mid-2011 and their trials were due to start in 2012. The increase in the number of positions funded under general temporary assistance was directly attributable to the additional workload connected with those trials.

56. **The Advisory Committee considers that the presentation of the Secretary-General's staffing proposals in the proposed budget is not clear. While table 3 of the report sets out the proposed post requirements, it is not immediately apparent from the narrative that the total proposed staffing component, including positions funded under general temporary assistance, is much higher. The Committee recommends that, in future budget proposals for the Tribunal, if general temporary assistance funding is proposed to continue the functions of abolished posts, the Secretary-General should include a table similar to the one above illustrating the full quantum of human resources proposed for the biennium.**

57. **The Advisory Committee understands the purpose of using general temporary assistance funding to continue the functions of posts that are to be gradually abolished over the course of the biennium, namely to allow for more accurate and responsive budgeting, as well as greater flexibility to adjust staffing levels. The Committee is concerned, however, that the total staffing levels at the**

**Tribunal have not decreased significantly since the biennium 2006-2007. The Committee is also concerned that the increase in the number of general temporary assistance positions at the beginning of the biennium 2012-2013 was not flagged or explained in the budget document. While the downsizing of the Tribunal does, to a certain extent, depend on factors beyond its control, the Committee believes that greater efforts should be made to streamline the staffing structure. The Committee therefore recommends that the General Assembly request that the Secretary-General explore options for accelerating the abolition of positions funded under general temporary assistance and report on the results of his efforts in the performance reports for the biennium 2012-2013.**

58. As shown in table 3 above, total proposed resource requirements for posts for the biennium 2012-2013 amount to $106,086,300 before recosting, representing a decrease of $13,130,900, or 11 per cent, as compared with the revised appropriation for 2010-2011. The Secretary-General indicates that the decrease is due to the delayed impact of 49 temporary posts in the Office of the Prosecutor and 102 temporary posts in the Registry that were abolished only in the second year of the biennium 2010-2011 (A/66/386, paras. 49 and 64; see also para. 54 above). **The Advisory Committee regrets that the budget document does not contain information justifying the continued need for all 546 temporary posts during the biennium 2012-2013. The Committee expects that the staffing table for the biennium 2014-2015 will reflect a significant reduction in temporary posts, given that the bulk of the Tribunal's trial work will have been completed and that the International Residual Mechanism will have taken over many of its functions.**

## 2. Non-post resources

*Other staff costs*

59. Under other staff costs, the Secretary-General estimates that resources in the amount of $57,861,100 before recosting will be required for the biennium 2012-2013, a decrease of $13,792,500, or 19.2 per cent, as compared with the revised appropriation for 2010-2011 (see table 3 above). From the supplementary information provided to it, the Advisory Committee notes that, of the total resources requested under other staff costs, general temporary assistance funding in the amount of $18,026,100, corresponding to a total of 2,064 work months, will be required for the Office of the Prosecutor to continue to the functions of posts abolished during the biennium 2012-2013. A further amount of $24,337,600, corresponding to a total of 3,357 work months, will be required for the same purpose in the Registry. The Committee has commented in more detail on the use of general temporary assistance funding in paragraphs 54 to 58 above.

*Travel of staff*

60. As indicated in table 3 above, total requirements for travel of staff are estimated at $3,877,800 before recosting, a decrease of $612,400, or 13.6 per cent, as compared with the requirements for the biennium 2010-2011. The Advisory Committee notes from the supplementary information provided to it that the bulk of those resources ($3,150,600) will be used by the Registry for the following activities:

(a) Travel of staff in connection with judicial activities and to support field operations ($601,800). The estimates are based on the assumption that 312 missions will take place during the biennium ($573,499). Provision is also made for the travel of staff of the Office of Internal Oversight Services in connection with the audit of the Tribunal ($28,400);

(b) Travel of victims and witnesses, support persons and dependants and associated accommodation and communications costs ($2,548,800). It is anticipated that 660 witnesses will travel to The Hague during the biennium for hearings and trials. Fifty of those witnesses are eligible to be accompanied by a support person, bringing the basis for the estimate to 710 persons. It is estimated that transportation costs to and from The Hague, as well as travel documents, will amount to $950 per person; accommodation and meals will amount to an average cost of $238 per person per day for an average of 7 days in 2012 and 10 days in 2013; and a witness allowance for incidental expenses will amount to $42 per day. In addition, the estimates include a provision in the amount of $211,500 for escorting witnesses, calculated on the basis of 49 two-week trips at $4,317 per trip. The Secretary-General indicates that staff of the Victims and Witnesses Section are required to escort high-risk witnesses from their homes to the courts and back again. This task involves not only physically escorting the witnesses but also liaison with national and local authorities in the region to ensure that witnesses are put under the least possible stress.

61. The Advisory Committee notes the reduction in travel costs as compared with the previous biennium. **The Committee takes the view, however, that further efforts should be made to achieve efficiencies under this budget line, in particular through the consolidation of trips wherever possible.**

*General operating expenses*

62. The Advisory Committee notes from the supplementary information provided to it that, under general operating expenses, there is an increase of $853,500 for rental of premises. Upon enquiry, the Committee was informed that the increase was attributable to the inclusion in the provision for rental of premises of the costs related to the amortization of expenditures to be incurred by the landlord in connection with the refurbishment of the main building. The refurbishment was being undertaken in order to ensure the safe and reliable functioning of the premises for the remainder of the Tribunal's lifetime. Additional requirements are also included for the provision of accommodation to Security Officers stationed in field locations.

## 3. Other issues

*Archives and records management*

63. As indicated in paragraph 69 of the report of the Secretary-General (A/66/386), under the provisions of Security Council resolution 1966 (2010), the records and archives functions of both Tribunals will be transferred to the International Residual Mechanism during the biennium 2012-2013. The budgets for the International Tribunal for the Former Yugoslavia and the Mechanism have been prepared on the assumption that the transfer of the management of the archives will take place as of 1 July 2012. Accordingly, the resource requirements for the archives component of the budget of the Tribunal cover only the first six months of the biennium. The

Advisory Committee notes, however, that the budget does contain provisions relating to backlog projects until the end of the biennium. In table 11 of his report, the Secretary-General states that total resources required for the biennium 2012-2013 for records management and archives amount to $2,588,200 before recosting, reflecting a decrease of $1,359,400 as compared with the requirements for the preceding biennium. Upon enquiry, the Committee was informed that the Office of the Prosecutor had already begun working closely with archives staff in order to ensure the smooth transfer of relevant material, which included approximately 9.8 million pages of documentation and 12,000 audio and video tapes to the Mechanism.

### D. Conclusion and recommendations

64. **The Advisory Committee recommends that the General Assembly take note of the second performance report and approve the final appropriation for the biennium 2010-2011 in the amount of $327,472,300 gross ($286,012,600 net) to the Special Account for the International Tribunal for the Former Yugoslavia.**

65. **The Advisory Committee also recommends approval of the resource requirements outlined in the proposed budget for the biennium 2012-2013 for the International Tribunal for the Former Yugoslavia, bearing in mind the observations and recommendations set out in the paragraphs above.**

## V. International Residual Mechanism for Criminal Tribunals

66. By its resolution 1966 (2010), the Security Council established the International Residual Mechanism for Criminal Tribunals to continue the jurisdiction, rights, obligations and essential functions of the Tribunals. The branch for the International Criminal Tribunal for Rwanda (Arusha branch) commences operations on 1 July 2012; the branch for the International Tribunal for the Former Yugoslavia (The Hague branch) on 1 July 2013. Annex IV of the present report provides the timeline for the transfer of functions from the Tribunals to the Mechanism.

67. In accordance with the above-cited resolution, the Mechanism will function for an initial period of four years after which its progress will be reviewed. Annex 2 of the resolution sets out the separate competence of the Tribunals and the Mechanism in core functions during the transition period. With respect to trials, the Tribunals have competence in cases of fugitives arrested more than 12 months prior to the commencement date of the respective branch; where arrested 12 months or less, the Mechanism has competence. On appeals, the Tribunals have competence where the notice of appeal is filed prior to the commencement date of the respective branch; if filed on or after the commencement date, the Mechanism has competence.

68. Two main objectives underpin the Mechanism's activities during the biennium 2012-2013: (a) the commencement of operations on the basis of a coordinated transfer of the Tribunals' functions and operations; and (b) the effective and efficient implementation of its residual functions (see A/66/537, para. 3).

69. The Advisory Committee was informed that start-up activities for the Mechanism have begun, including negotiations for headquarters agreements with the Governments of the Netherlands and the United Republic of Tanzania, the

submission of the list of judicial nominations to the Security Council, and the ongoing review by the Council of the draft rules of procedure and evidence of the Mechanism. The Committee notes that the General Assembly has issued the list of judicial candidates established by the Council and has set out the procedure for the upcoming election of judges (A/66/571).

70. With respect to the size of the Mechanism, the Security Council emphasized that the Mechanism should be a small, temporary and efficient structure, with a small number of staff commensurate with its reduced functions (see Security Council resolution 1966 (2010)).

71. The Mechanism will coexist with both Tribunals during the biennium 2012-2013, allowing the three entities to share resources, provide mutual support and coordinate beneficially (see A/66/386, para. 17). The resources requested for the biennium 2012-2013, before recosting, amount to $50,434,400 gross ($46,827,900 net). The requirements by object of expenditure are set out in table 4, below.

Table 4
**Requirements by object of expenditure**
(Thousands of United States dollars)

*Assessed budget*

| *Object of expenditure* | *Total before recosting* | *Recosting* | *2012-2013 estimate* |
|---|---|---|---|
| Posts | 9 765.2 | 116.0 | 9 881.2 |
| Other staff costs | 16 759.5 | 2 059.1 | 18 818.6 |
| Non-staff compensation | 3 118.1 | 385.9 | 3 504.0 |
| Consultants | 131.1 | 16.1 | 147.2 |
| Travel of representatives | 293.6 | 10.8 | 304.4 |
| Travel of staff | 2 205.6 | 82.1 | 2 287.7 |
| Contractual services | 3 915.1 | 476.5 | 4 391.6 |
| General operating expenses | 3 432.0 | 360.4 | 3 792.4 |
| Supplies and materials | 452.3 | 56.1 | 508.4 |
| Furniture and equipment | 1 008.4 | 124.7 | 1 133.1 |
| Improvement of premises | 5 520.0 | 683.2 | 6 203.2 |
| Grants and contributions | 227.0 | — | 227.0 |
| Staff assessment | 3 606.5 | 246.1 | 3 852.6 |
| **Total expenditure (gross)** | **50 434.4** | **4 617.0** | **55 051.4** |
| Income | | | |
| Income from staff assessment | 3 606.5 | 246.1 | 3 852.6 |
| **Total requirements (net)** | **46 827.9** | **4 370.9** | **51 198.8** |

72. The Advisory Committee notes that the Mechanism will engage in two main types of activities — continuous and ad hoc (see A/66/537, para. 7). The Committee was informed that the proposed budget comprises $21.6 million for continuous activities and $28.8 million for ad hoc activities.

73. Continuous activities include witness protection, tracking of fugitives, supervision of enforcement of sentences, archives management and assistance to national prosecution authorities (see A/66/537, para. 8). It is proposed that staffing for continuous activities comprise 97 posts. During the biennium 2012-2013, the establishment of 67 posts is requested, while the 30 remaining posts would be covered through the "double-hatting" of existing staff of both Tribunals. Under double-hatting arrangements, existing staff of the Tribunals would perform functions related to the operations of the Mechanism in addition to their current functions at the Tribunals, at no additional cost. Table 5 below shows the distribution of the 67 requested posts.

Table 5
**Post requirements**

| *Category* | *January 2012* | *July 2012* | *July 2013* | *Total 2012-2013* |
|---|---|---|---|---|
| **Professional and higher** | | | | |
| **Arusha branch** | | | | |
| P-5 | — | 2 | — | 2 |
| P-4/3 | 2 | 17 | — | 19 |
| P-2/1 | — | 5 | — | 5 |
| **Subtotal** | **2** | **24** | **—** | **26** |
| **The Hague branch** | | | | |
| P-5 | 1 | — | 1 | 2 |
| P-4/3 | — | 6 | 4 | 10 |
| P-2/1 | — | 1 | — | 1 |
| **Subtotal** | **1** | **7** | **5** | **13** |
| **Total Professional and higher** | **3** | **31** | **5** | **39** |
| **General Service and other** | | | | |
| **Arusha branch** | | | | |
| Other level | — | 12 | — | 12 |
| Security Service | — | 1 | — | 1 |
| Local level | — | 5 | — | 5 |
| **Subtotal** | **—** | **18** | **—** | **18** |
| **The Hague branch** | | | | |
| Other level | — | 5 | 5 | 10 |
| Security Service | — | — | — | — |
| Local level | — | — | — | — |
| **Subtotal** | **—** | **5** | **5** | **10** |
| **Total General Service and other** | **—** | **23** | **5** | **28** |
| **Grand total** | **3** | **54** | **10** | **67** |

74. The 30 double-hatted posts are distributed as follows: 19 for The Hague branch, 7 for the Arusha branch and 4 posts common to both branches (see A/66/537, page 27, Organization chart).

75. Ad hoc activities consist primarily of the conduct of trials and appeals and preparatory activities for the Mechanism (see A/66/537, para. 9). The Advisory Committee notes from the supplementary information provided to it that no ad hoc activities are envisaged for The Hague branch. However, the Committee was informed that trials, appeals and other judicial activities are projected for the Arusha branch, and funding through general temporary assistance is requested in respect of 154 positions for an average of 12 months to carry out these ad hoc activities (see A/66/537, para. 18).

76. Resources will be shared by the Tribunals and the Mechanism, particularly through double-hatting and common services, to provide mutual support and ensure cooperation (see A/66/537, para. 2). Upon enquiry as to the details of economies of scale and efficiencies achieved through resource-sharing, the Advisory Committee was informed that the proposed budget contains reduced post requirements owing to double-hatting arrangements and the provision of administrative support by the Tribunals; reduced or no requirements for premises, utilities and other infrastructure costs through co-location; and reduced or no requirements for furniture and equipment costs through sharing of the Tribunals' existing furniture and equipment. **The Committee notes the efforts made in proposing shared resources but considers that more could have been done to lower costs and to establish a smaller, more cost-effective structure for the Mechanism in accordance with Security Council resolution 1966 (2010). The Committee encourages the Secretary-General to ensure that the Mechanism utilizes further cost-saving measures, including increased use of double-hatting arrangements and increased sharing of premises and other common services, and expects the next proposed budget to reflect further savings through increased resource-sharing.**

77. Of the 30 proposed double-hatted posts, 2 are allocated for the Prosecutor and Registrar of the Mechanism. It is proposed that these positions would be filled by one of the two incumbents of these positions at the two Tribunals, in accordance with article 7 (a) of annex 2 of Security Council resolution 1966 (2010). The Advisory Committee notes that article 14.4 of the statute of the Mechanism provides that the terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations. Article 15.3 of the statute provides that the terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

78. Upon enquiry, the Advisory Committee was informed that the Registrar-designate will commence work in January 2012 for a period of six months, with an advance team, to prepare for the functioning of the Arusha branch on 1 July 2012. As it was anticipated that the Registrar would be double-hatted with one of the Tribunals' Registrars, no cost implications were foreseen in this respect in the proposed budget. The Committee was further informed that, in the interest of transparency, the Secretary-General has issued a vacancy announcement for the position of Registrar. Should neither of the incumbent Registrars of the Tribunals be selected, the Committee was informed that resources would be reprioritized where possible, and if necessary, additional resource requirements would be requested in a revised budget. **The Committee recognizes that the issuance of a vacancy**

**announcement for the position of Registrar would ensure a transparent and competitive selection process. The Committee notes, however, that should the successful candidate not be one of the two incumbent Registrars of the Tribunals, there will be budgetary implications. The Committee trusts that whatever the outcome of the selection process, the costs of the position of Registrar will be absorbed within the proposed budget.**

79. Upon enquiry, the Advisory Committee was informed that the advance team would comprise three members of staff of the Mechanism: Chief Archivist (P-5), Legal Officer (P-4) and Administrative Officer (P-4). These three posts are included within the request for the establishment of 67 posts (see para. 73 above). It is also indicated that the advance team can be supplemented by up to six positions funded through general temporary assistance in the areas of human resources, financial management, property management, information technology and general services. These six positions are included within the request for 154 positions proposed to be funded through general temporary assistance (see para. 75 above).

80. Article 27.2 of the statute of the Mechanism provides that the archives of the Tribunals shall be co-located with the respective branches of the Mechanism. The Advisory Committee was informed that the archives of the International Criminal Tribunal for Rwanda have deteriorated owing to current storage conditions, which were deemed by an audit of the Office of Internal Oversight Services to be unsuitable. The Committee was further informed that the current premises of the International Criminal Tribunal for Rwanda are rented and shared with other entities, posing a security situation that does not fully comply with the headquarters minimum operating security standards. The Committee notes, from the supplementary information provided to it, that the proposed budget for the Mechanism therefore includes an amount of $5,500,000 for the construction of new premises in Arusha to serve as the long-term location of the Arusha branch and the Tribunal archives. The new purpose-built facility in Arusha will include one court room office facility where the Arusha branch will conduct its residual judicial activity.

*Posts*

81. As outlined in paragraph 73 above, the Secretary-General is requesting the establishment of 67 posts for the Mechanism, which amounts to proposed resource requirements of $9,765,200 before recosting (see table 4 above).

*Non-post resources*

82. The Secretary-General is requesting funding through general temporary assistance for 154 positions for an average of 12 months for the Mechanism. Resource requirements under other staff costs, including general temporary assistance, are estimated at $16,759,500 before recosting.

83. Contractual services, which include defence counsel costs, are projected at a total of $3,915,100 before recosting. The Advisory Committee notes, from the supplementary information provided to it, that defence counsel fees and related costs at both trial and appellate levels are estimated at $2,993,500, based on the lump-sum system.

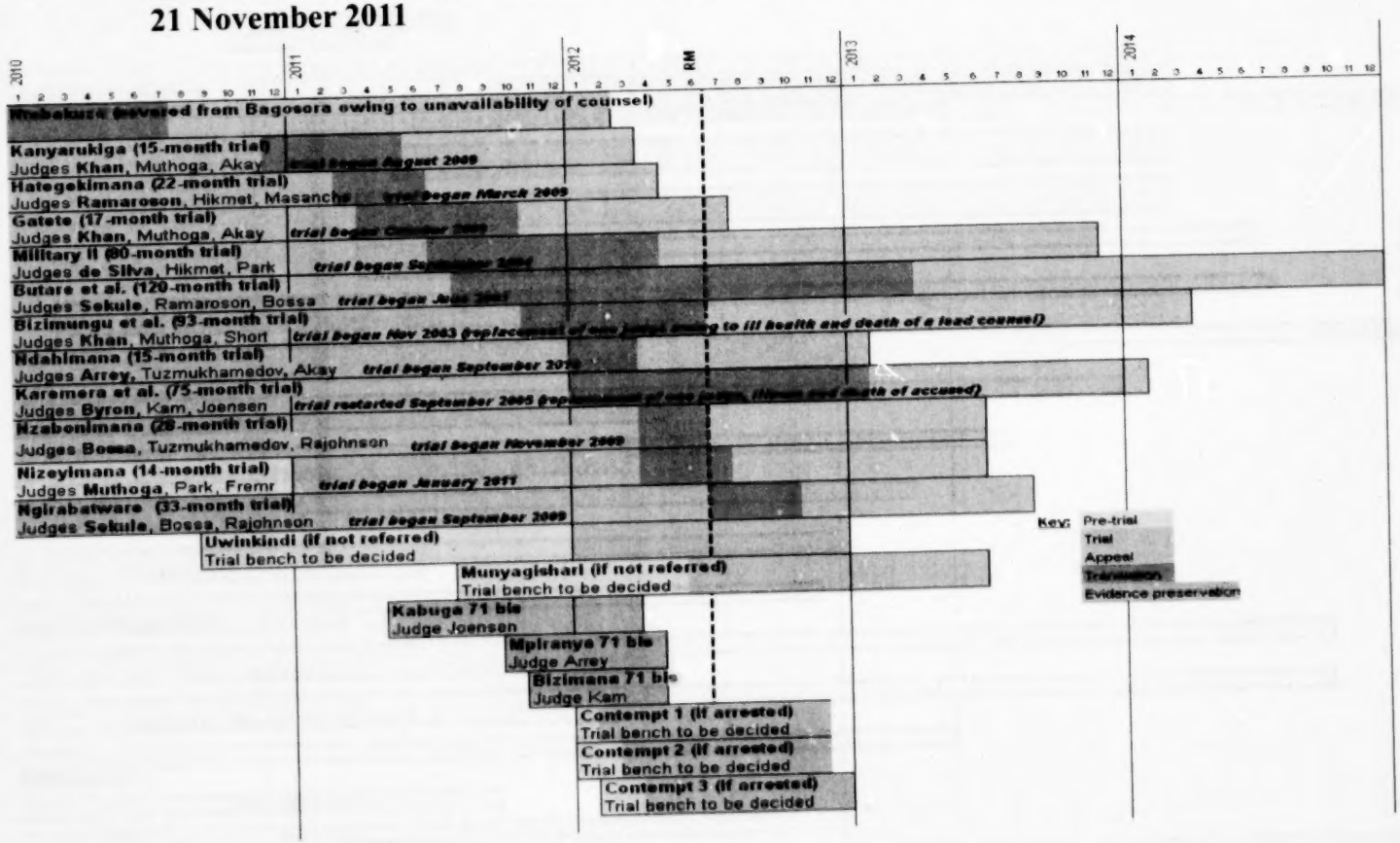
84. A provision under improvement of premises, estimated at a total of $5,520,000, is included in the proposed budget for the construction of the new purpose-built facility in Arusha to house the archives and the Arusha branch and for related cleaning and refurbishment costs. **The Advisory Committee encourages the close monitoring of the construction project to ensure its timely completion.**

85. Upon enquiry as to the applicable scale of assessments for the International Residual Mechanism, the Advisory Committee was informed that given that the Mechanism would continue the Tribunals' activities, the Secretary-General has assumed that the current financing arrangement applicable to the Tribunals would also be applicable to the Mechanism.

86. **The Advisory Committee recommends: (a) the approval of the proposed budget for the International Residual Mechanism for the biennium 2012-2013; (b) the approval of the establishment of 67 posts during the biennium 2012-2013; and (c) the appropriation of a total amount of $50,434,400 gross ($46,827,900 net), before recosting, for the Mechanism for the biennium 2012-2013.**

# Annex I

## International Criminal Tribunal for Rwanda projected schedule as at 21 November 2011

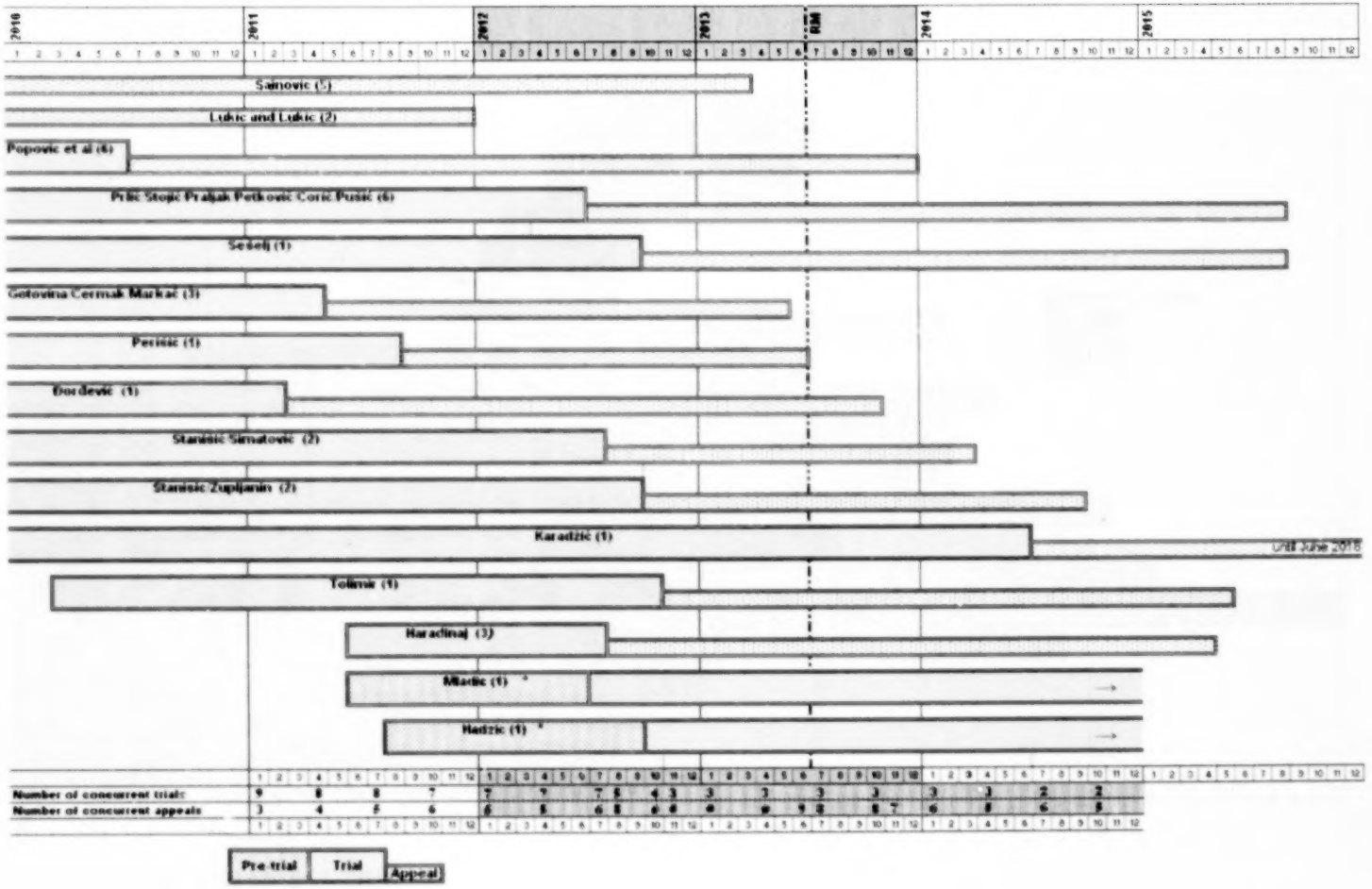



*Other work*

- Reviewing approximately 500 witness protection orders
- Review of seven amended indictments with respect to fugitives
- Decisions in at least two further 11 bis applications

# Annex II

## Projected forecast, at the time of budget preparation, for pretrial, trial and appeals proceedings at the International Tribunal for the Former Yugoslavia




[a] Completion date not yet determined.

# Annex III

## Proposed phasing out of positions funded under general temporary assistance at the International Tribunal for the Former Yugoslavia during the biennium 2012-2013

| | *December 2011* | *January 2012* | *April 2012* | *July 2012* | *August 2012* | *October 2012* | *November 2012* | *December 2012* | *January 2013* | *February 2013* | *July 2013* | *November 2013* |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Under-Secretary-General | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Assistant Secretary-General | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D-2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D-1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| P-5 | 6 | 11 | 11 | 11 | 10 | 8 | 7 | 7 | 7 | 7 | 7 | 6 |
| P-4 | 24 | 32 | 30 | 29 | 25 | 17 | 14 | 14 | 14 | 14 | 13 | 13 |
| P-3 | 58 | 76 | 74 | 74 | 68 | 58 | 50 | 50 | 49 | 39 | 31 | 29 |
| P-2 | 34 | 41 | 40 | 40 | 37 | 31 | 26 | 25 | 24 | 21 | 21 | 21 |
| **Total Professional level and higher** | **122** | **160** | **155** | **154** | **140** | **114** | **97** | **96** | **94** | **871** | **72** | **69** |
| General Service (Principal level) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| General Service (Other level) | 113 | 125 | 125 | 124 | 118 | 99 | 75 | 75 | 73 | 73 | 66 | 66 |
| Security Service | 41 | 34 | 34 | 33 | 33 | 21 | 21 | 21 | 21 | 21 | 21 | 21 |
| **Overall total** | **276** | **319** | **314** | **311** | **291** | **234** | **193** | **192** | **188** | **175** | **159** | **156** |

# Annex IV

## Timeline for transfer of functions to the International Residual Mechanism